

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

DAVID DAWSON,

Plaintiff,

v.

PELEUS INSURANCE COMPANY,

Defendant.

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CIVIL ACTION NO. 5:17-cv-00816

**DEFENDANT’S NOTICE OF REMOVAL**

Defendant Peleus Insurance Company files this Notice of Removal under 28 U.S.C. Section 1446(a) and respectfully states.

**I.**  
**INTRODUCTION**

1. Plaintiff David Dawson (“Plaintiff”) commenced this lawsuit on July 24, 2017 by filing Plaintiff’s Original Petition in the 150th Judicial District Court of Bexar County, Texas – Cause No. 2017-CI-13409.

2. Plaintiff’s Original Petition, which includes a jury demand, names Peleus Insurance Company (“Peleus”) as the only defendant in this suit.

3. Plaintiff purports to have served Peleus with process in this action by delivering a copy of Plaintiff’s Original Petition to Peleus via certified mail on July 28, 2017. Accordingly, subject to and without waiving any objection(s) or challenge(s) to the sufficiency of service, Peleus files this Notice of Removal within the 30-day time period required by 28 U.S.C. Section 1446(b).

4. Venue is proper in this district under 28 U.S.C. Section 1441(a) because the state

court where the action is pending is located in this district.

## **II.**

### **BASIS FOR REMOVAL**

5. Removal is proper under 28 U.S.C. Section 1332(a) if there is complete diversity between the parties and the amount in controversy exceeds \$75,000 excluding interest, costs, and attorneys' fees. These two conditions are clearly satisfied in this matter.

**A. Removal is Proper Because Complete Diversity of Citizenship Exists Between Plaintiff and Peleus.**

6. As set forth in Plaintiff's Original Petition, Plaintiff is a real person who resides (and is domiciled) in Bexar County, Texas.<sup>1</sup> Plaintiff is thus a citizen of Texas for purposes of this Court's diversity jurisdiction.

7. Defendant Peleus is an insurance company incorporated in the State of Virginia with its principal place of business in Virginia. Peleus is thus a citizen of Virginia for diversity jurisdiction purposes.

8. Because Plaintiff is a citizen of Texas and Peleus is a citizen of Virginia, there is complete diversity between the parties for purposes of this Court's diversity jurisdiction.

**B. Removal is Proper Because Plaintiff's Claimed Damages Exceed This Court's Jurisdictional Threshold of \$75,000.**

9. If it is facially apparent that Plaintiff's claims in this suit exceed \$75,000, exclusive of interest, costs, and attorneys' fees, Peleus' burden to establish the amount in controversy exceeds this Court's jurisdictional threshold is satisfied.<sup>2</sup>

10. Here, Plaintiff's Original Petition states that Plaintiff seeks to recover damages

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<sup>1</sup> See Plaintiff's First Amended Petition at ¶4a.

<sup>2</sup> *Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1999).

between \$200,000 and \$1,000,000 in this lawsuit.<sup>3</sup> It is thus facially apparent that Plaintiff's claims exceed this Court's jurisdictional threshold of \$75,000.

11. Because there is complete diversity between the parties and the amount in controversy exceeds \$75,000 excluding interest, costs, and attorneys' fees, removal is proper under 28 U.S.C. Section 1332(a).

### **III. CONCLUSION**

12. All pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. Section 1446(a).

13. Peleus will promptly file a copy of this Notice of Removal with the clerk of the state court where the action is pending.

WHEREFORE, Defendant Peleus Insurance Company requests that this action be removed from the 150th Judicial District Court of Bexar County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division, and that this Court enter such further orders as may be necessary and appropriate.

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<sup>3</sup> See Plaintiff's Original Petition at ¶2.

Respectfully submitted,

**ZELLE LLP**

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**ATTORNEYS FOR DEFENDANT  
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**CERTIFICATE OF SERVICE**

I hereby certify that, on August 24, 2017, a true and correct copy of Defendant's Notice of Removal was served upon all known counsel of record pursuant to the Federal Rules of Civil Procedure as follows:

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